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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,440	12/12/2003	Fabian Kollmann	3201-366 (D4700-00380)	2028
8933	7590	08/14/2008		
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			EXAMINER PHILLIPS, CHARLES E	
			ART UNIT 3751	PAPER NUMBER
			MAIL DATE 08/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/735,440

**Applicant(s)**

KOLLMANN ET AL.

**Examiner**

Charles E. Phillips

**Art Unit**

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2 and 5-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. No support is found in the original disclosure for the now claimed "flush with an outer surface of the handgrip, such that the outer surface of the union nut extends the outer surface of the handgrip". The original drawings show the union nut non-formally i.e. in broken lines and in a tapered nature. The disclosure at page 3, lines 3-11, merely states that the union nut "forms an extension of the grip" and the text at page 4, lines 16-17, merely states "its outer surface is flush with the outer surface of the handgrip". Here, "the outer surface is not defined", and could be the respective surfaces that abut when the nut and fitting are engaged. The ordinary artisan could not infer from this, the meaning now claimed and argued for, i.e. that the "outer surface" here is not the end surface where it engages the handgrip particularly in light of the lack of any showing in the original drawings.

Applicant's arguments filed 6/19/08 have been fully considered but they are not persuasive. Applicant argues that, ' "Outer surface" plainly means the surface that is on the outside'. This sheds no light on the issue here. The disclosure does not clearly identify which surface is the "outer surface". As pointed out supra this could be the

abutting surface that contacts the showerhead and the broken line depiction in the drawing does not provide support for any particular surface. The only substantive disclosure is that the union nut 6 "forms an extension of the grip", with no particulars of this extension being disclosed.

The proposed drawing correction filed on 6/19/08 is disapproved as the depiction of the union nut is inconsistent with that of the original drawings in that and the showing of what appears to be a smooth surface on the union nut 6, that appears to be a continuation of the hand grip portion of the showerhead, is not supported by the original disclosure and drawing where the showing is a series of broken lines which do not portray any particular transition from the grip to the nut.

As the claims appear to be similar to those treated in the 11/13/06 communication, the art rejection of that paper is repeated herein. The examiner sees no difference between the element 156 of Thomas et al and what the original drawings of the instant case reveal.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 7 are rejected under 35 U.S.C. 102b as being anticipated by Thomas et al.

The showerhead is seen at 40, the hand grip at 46 connected as set forth in instant claim 1. The size ratio of the two appears to meet the claim 1 parameters. The "fitting" is seen at 186 and as shown in Fig. 6B accepts the "union nut" 156, which as seen in Fig. 1 "forms an extension of the handgrip" and is deemed to provide response to the amended portion i.e. the last four lines of claim 1. Re: claim 2, if the grip 4 of the instant device as depicted in Fig. 1 is "approximately parallel", as set forth in claim 2, then the same relationship is present in Thomas et al as depicted in Fig. 1. Element 80 passes the shower water and in col. 9, lines 2-3, is called a hose. Observation of the line depicted as element 56 between the upper end of union nut 156, to the point where this line meets showerhead 40 with the diameter of 40 seen as the line above the spray outlets, clearly falls within the ratio of 1:2.

Applicant's arguments on page 7, line 10, are not well taken as no support for any specific outer surface is deemed disclosed and Thomas et al certainly show a flush nature of the grip 46 and nut 156. Furthermore, the Thomas et al depiction shows a smooth transition of the grip and nut.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al as applied supra.

With respect to claim 5: the depth of the head 40 near the center compared to the diameter of the surface from which the jets exit is approximately 1:4. This falls within the range set forth in paragraph 3 of page 3 and as such possess obvious equivalence to the ratio claimed here.

pertains.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al in view of DE 19942853.

To provide the former with an oval shape as taught by the latter at 1 would have constituted an obvious expedient of choice in design.

The drawings are objected to as being informal and for the use of a broken line showing of substance being claimed, i.e. under 37 C.F.R. 1.84(h)(4) broken lines are reserved for "alternate views". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Phillips whose telephone number is 571-272-4893. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson, can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action.

/Charles E. Phillips/

Primary Examiner, Art Unit 3751

Application/Control Number: 10/735,440  
Art Unit: 3751

Page 7